

REMARKS

In the Office Action, claims 19-25, 33, and 35-40 were rejected under 35 U.S.C. 103(a) as being unpatentable over Canham et al., U.S. Patent Application Publication 2005/0048859 ("Canham") in view of Clere et al., U.S. Patent No. 6,551,352 ("Clere"). In this amendment, Applicant amends independent claim 19 to more clearly indicate that the claimed ceramic fiber and the claimed non-ceramic fiber are two different fibers. Applicant asserts that this amendments places the application in condition for allowance.

The undersigned thanks Examiner Stewart for the courtesies extended during the telephonic interview on November 12, 2008. During the Interview, the Examiner and the undersigned discussed the note on page 5 of the Final Office Action. Examiner Stewart indicated that the instant amendment would clearly claim that the claimed ceramic fiber and the claimed non-ceramic fiber are different fibers and thus overcome the instant rejection of claim 19. Accordingly, Applicant believes that claim 19 is now in condition for allowance.

The Examiner and the undersigned also discussed the finality of the Final Office Action. In the Final Office Action, the Examiner asserted that the "Applicant's amendment necessitated the new ground(s) of rejection presented." Office Action, page 5. Independent claim 33, however, was not amended after the non-final rejection. The amendment of independent claim 19 could not have necessitated the new ground of rejection of independent claim 33. Accordingly, Applicant believes that the finality of the most recent office action is improper.

Applicant also believes that claim 33 is in condition for allowance. Claim 33 requires a medical device that includes "a tubular structure; and a polymer element on the tubular structure, wherein the polymer element comprises a ceramic fiber comprising a metalloid." Canham does not disclose any tubular structure that includes a polymer element that includes a ceramic fiber including a metalloid. Canham does disclose that a silicon fiber can be produced by coating a polymer or ceramic fiber with silicone (paragraph 42), but Canham does not disclose any tubular body that is coated with a polymer element that includes such a ceramic/silicone fiber. It is also unclear how Clerc is being used in the rejection of claim 33. Clerc also does not disclose a medical device that includes "a tubular structure; and a polymer element on the tubular structure,

wherein the polymer element comprises a ceramic fiber comprising a metalloid.” Accordingly, the rejection of independent claim 33 is in error and should be withdrawn.

The dependent claims are also allowable for the same reasons. Additionally, Appellant requests that the withdrawn dependent claim 34 be rejoined and allowed because it depends from allowable generic claim 33. As such, Applicants request that the Examiner allow all pending claims 19-25 and 33-40.

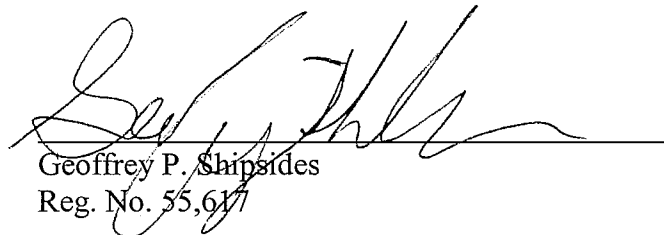
Although Applicant has amended certain claims to advance prosecution, Applicant believes that, before amendment, the claims contained patentable subject matter. As such, Applicant reserves the right to pursue claims of the same or similar scope in the future.

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue, or comment does not signify agreement with or concession of that rejection, issue, or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

Please apply any other charges or credits to deposit account 06-1050.

Respectfully submitted,

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